

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

UNITED STATES OF AMERICA,)	Criminal Case No. 5:15cr00020-1
)	
v.)	<u>2255 DISMISSAL ORDER</u>
)	
WARREN EVANS, JR.,)	By: Michael F. Urbanski
Petitioner.)	Chief United States District Judge

Petitioner Warren Evans, Jr., a federal inmate proceeding pro se, filed a motion for an extension of time to file a direct appeal. By order entered April 4, 2019, the court notified Evans of its intention to construe and address the filing as a motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255, unless he objected to that construction. See ECF No. 70; Castro v. United States, 540 U.S. 375 (2003). Evans responded, see ECF No. 72, indicating his objection to the court's intended construction and based on his response, it is hereby **ORDERED** that this action, conditionally filed pursuant to § 2255, is **DISMISSED without prejudice** and **STRICKEN** from the active docket of the court.

Further, the court finds that Evans has not made the requisite showing of the substantial denial of a constitutional right as required by 28 U.S.C. § 2253(c) and, therefore, a certificate of appealability is **DENIED**.

The Clerk shall send copies of this order to the parties.

ENTER: This 23rd day of April, 2019.

/s/ Michael F. Urbanski

Chief United States District Judge